

TAB 19

***United States Court of Appeals***  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

**LYLE W. CAYCE**  
**CLERK**

**TEL. 504-310-7700**  
**600 S. MAESTRI PLACE,**  
**Suite 115**  
**NEW ORLEANS, LA 70130**

October 16, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 23-20350      In re: Anadarko Petroleum  
USDC No. 4:20-CV-576

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

*Rebecca L. Leto*

By: \_\_\_\_\_  
Rebecca L. Leto, Deputy Clerk  
504-310-7703

Mr. Joseph David Daley I  
Mr. Elton Joe Kendall  
Mr. Nathan Ochsner  
Mr. Kevin Orsini  
Mr. Lauren Rosenberg  
Mr. George T. Shipley  
Mr. Mark Solomon

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

October 16, 2023

No. 23-20350

Lyle W. Cayce  
Clerk

IN RE ANADARKO PETROLEUM CORPORATION; R. A. WALKER;  
ROBERT G. GWIN; ROBERT P. DANIELS; ERNEST A.  
LEYENDECKER, III,

*Petitioners.*

---

Petition for a Writ of Mandamus  
to the United States District Court  
for the Southern District of Texas  
USDC No. 4:20-CV-576

---

UNPUBLISHED ORDER

Before JONES, HIGGINSON, and Ho, *Circuit Judges*.

PER CURIAM:

We have consistently held that a writ of mandamus is a “drastic and extraordinary remedy reserved for extraordinary causes.” *In re Depuy Orthopaedics, Inc.*, 870 F.3d 345, 350 (5th Cir. 2017) (quoting *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380 (2004)). Such remedy should only be invoked in exceptional circumstances, such as “a judicial usurpation of power,” *Will v. United States*, 389 U.S. 90, 95 (1967), or a “clear abuse of discretion.” *Bankers Life & Casualty Co. v. Holland*, 346 U.S. 379, 383 (1953)). Because we find that the trial court’s ruling does not reach the threshold of clear and indisputable error, the petition for writ of mandamus is denied.

No. 23-20350

We note our concern, however, as to the potential scope of the privilege waiver granted by the trial court. The trial court reasoned that out of fairness, the privilege waiver extends to the entire subject matter of the AAC investigation. *See FED. R. EVID. 502(a); Doc. 173 at 8–9.* But the trial court nevertheless acknowledged that because “legitimate disputes may exist” about whether certain documents fall under this waiver, it intends to provide Defendant Anadarko with an opportunity to challenge waiver and reassert privilege as to specific documents, either before the court or through a Special Master. **Doc. 173 at 9.**

Accordingly, we advise the trial court, or the appointed Special Master, to scrutinize challenged documents and consider its decisions regarding the scope of the waiver carefully. Furthermore, we are confident that the trial court will take reasonable measures to protect the documents and their contents until these legal decisions are made.

It is ordered that the petition for writ of mandamus is denied.